

REMARKS

STATUS OF THE CLAIMS

Claims 1 – 36 are pending in the application. Claims 27-33 and 35 are withdrawn from consideration as being directed to the nonelected subject matter. Claims 1-26, 34 and 36 are rejected. Applicant respectfully traverses the rejections and address them in detail below.

THE ELECTION/RESTRICTION REQUIREMENT

Applicant respectfully confirms the election made by telephone by Applicant's representative, P. Alan Larson, on August 18, 2004, to elect Group I, claims 1-26, 34 and 36. Claims 27-33 and 35 are cancelled without prejudice. Applicant reserves the right to pursue the subject matter of these claims in other applications.

INTERVIEW SUMMARY

Applicant thanks the Examiner for the interview by telephone of August 18, 2004, wherein the Examiner pointed out minor errors in the IDS's filed on October 14, 2003 and August 15, 2003, showing some references being duplicated and other minor errors on the form. Applicant thanks the Examiner for correcting those minor errors and considering the references listed.

OBJECTIONS TO THE DRAWINGS

The drawings are objected under 37 C.F.R. § 1.83(a). With respect to this objection, Applicant respectfully cancels claim 10 directed to lip keeper support system, wherein the lip holder comprises at least three lip supporting positions. Applicant, by no means, is agreeing or acquiescing that any lip keeper support system, wherein the lip holder comprises at least three lip supporting positions, would not infringe other claims herein, but rather is canceling claim 10 to further prosecution. Claim 10 is redundant because other claims recite two lip supporting

positions and any system having three lip supporting positions would also have two lip supporting positions. Therefore claim 10 is deemed redundant and not necessary to adequately claim the Applicant's invention. The cancellation of claim 10 obviates the Examiner's objection with respect to the drawing under 37 C.F.R. § 1.83(a).

The Examiner stated on page 5 of the Office Action that the informal drawings embodied in FIGS. 15, 16 and 17 and are not of sufficient quality to permit further examination. Accordingly, replacement drawing sheets, in compliance with 37 C.F.R. § 1.21(d) are required in reply to this Office Action. Applicant is submitting formal drawings for all of the figures along with this reply and will label FIGS. 15, 16 and 17 replacement sheets in the page header as per 37 C.F.R. § 1.84(c).

CLAIM OBJECTIONS

Claim 24 is objected to because of an informality. The amendment of adding the word "a" to claim 24 obviates the Examiner's objection. This amendment made to claim 24 merely corrects a grammatical error and does not change the scope of the claim in any way. Therefore, claim 24 is entitled to its full scope, both literally and under the doctrine of equivalence.

With respect to the claim numbering objections, Applicant expects the sequence of the claims will be corrected by the Patent Office once the claims are deemed allowed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-3, 5, 7, 9, 11-14 and 20-22 are rejected under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,502,268 to Ashelin, *et al.* Applicant respectfully traverses these rejections.

A Section 102 rejection is proper only if each and every element, as set forth in the claim, is found – i.e., the prior art must teach every aspect of the claim. *See Verdegall Bros. v. Oil Co.*

of California, 918 F.2d 628, 631 (Fed.Cir. 1987); see also M.P.E.P. § 2131. Ashelin, *et al.* does not teach or suggest the combination recited by independent claim 1 and its dependent claims 2-9 and 34. For example, claim 1 recites, “a lip holder comprising at least two lip supporting positions.” The Examiner, on pages 6 and 7 of the Office Action, asserts that Ashelin discloses at least two lip supporting positions where one body is identified in Ashelin’s Reference No. 90, and the second is identified by Reference No. 98, as a second lip supporting position. However, this interpretation of Ashelin is based upon a misreading of Ashelin. For example, item 98, as shown in FIG. 9 of Ashelin, is not a lip support, and is not capable of making a lip supporting position, but rather item 98 is a wedge installed above rollers 64 and 66 is used to guide the lower edge of the lip 18 around the roller housing. See col. 5, lines 1-4. Thus, the second body identified by the Examiner 98 as a lip supporting position is not a lip supporting position at all, but rather is merely a ramp to guide the lip to a lower position and is not capable of supporting the lip or ramp. Thus, Applicant respectfully requests the rejection of claim 1-9 and 34 under 35 U.S.C. § 102 in view of Ashelin be removed.

Ashelin does not teach or suggest the combination recited by independent claim 11 or its dependent claims 12-14 because, for example, independent claim 11 recites, “a lip holder comprising at least two lip supporting positions.” As mentioned above, Ashelin does not provide a teaching or suggestion at least two lip supporting positions. Therefore, Applicant respectfully requests that the Section 102 rejections of claims 11-14, in view of Ashelin, be withdrawn.

Ashelin does not teach or suggest a method recited by independent claim 24 and its dependent claims 25 and 26. For example, Ashelin does not teach a method that includes, as recited by claim 24: “securing a second lip engagement apparatus below the ramp at a location wherein the second lip engagement apparatus engages and supports the lip if the lip should miss

the first lip engagement apparatus and continue to a below dock level position,” at least for the reasons described above. Therefore, Applicant respectfully requests that the rejection of claims 24-26, in view of Ashelin, be withdrawn.

Claims 1, 2, 4, 6, 8, 11, 20, 23 and 34 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,920,598 to Hahn. Applicant respectfully traverses these rejections.

The Examiner, on pages 8 and 9 of the Office Action, asserts that Hahn discloses a lip keeper support system for use of the dock leveler, having a pivotable lip comprising a lip holder (28) comprising at least one, multi-tiered body 28 having at least two positions capable of supporting the lip (20).” However, this interpretation is based on a misreading of Hahn. At best, Hahn shows a lip keeper 28 that has one, and only one, support position identified in FIGS. 2 and 5 as “N.” N is a cavity within feature 28 and N prime is an outer wall that cams the lip’s lower edge slightly toward the notch inner wall whereby lip edge is retained in the notch as the lip moves downwardly. See col. 4, lines 6-11. Thus, at best, Hahn describes a lip keeper with only one support position. For at least this reason, Hahn does not teach or suggest the combination claimed in claims 1, 2, 4, 6, 8, 11, 20, 23 and 34. Therefore, Applicant respectfully requests that the rejection of these claims in view of Hahn be removed.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ashelin. However claim 26 is dependent from claim 24. Therefore, claim 26 is patentable at least by reason of its dependency upon claim 24 which has been shown above to be patentable over Ashelin. Therefore, Applicant respectfully requests that the rejections under 35 U.S.C. § 103, of claim 26, be removed.

Claim 10 is rejected under 35 U.S.C. § 103 as being unpatentable over Ashelin in view of U.S. Patent No. 6,125,491 to Alexander. However, claim 10 is cancelled herein for reasons stated above.

Claims 15-19 and 36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hahn in view of U.S. Patent No. 5,440,772. However, claims 15-19 and 36 are dependent upon claim 11, which has been shown to be patentable over Hahn above. Therefore, claims 15-19 and 36 are patentable at least by reason of their dependency. Therefore, Applicant respectfully requests that the rejections under 35 U.S.C. § 103 of claims 15-19 and 36 over Hahn, in view of Springer, be withdrawn.

CONCLUSION

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited. Any extension of time necessary to prevent abandonment is hereby requested, and any fee necessary for consideration of this response is hereby authorized to be charged to Deposit Account No. 50-2036.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at 202/861-1714.

Respectfully submitted,

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